

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

HOWARD FRANKLIN CARROLL §
VS. § CIVIL ACTION NO. 1:05cv492
BRAD LIVINGSTON §

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner Howard Franklin Carroll, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division (“TDCJ-CID”), proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges for findings of fact, conclusions of law, and recommendations for the disposition of the case.

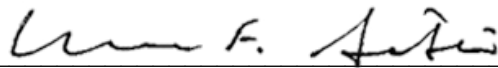
Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus in either the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he district court for the district wherein such an application is filed in

the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.” *Id.*

Petitioner was convicted and sentenced in Williamson County which is located in the Austin Division of the United States District Court for the Western District of Texas. This court has jurisdiction because petitioner is confined in the Eastern District of Texas. However, the court has considered the circumstances and has determined that the interests of justice would best be served by transferring this petition to the district where petitioner was convicted and sentenced. Therefore, the petition should be transferred to the Western District of Texas for hearing and determination. An order transferring the case will be entered by the undersigned.

SIGNED this 26 day of July, 2005.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE